

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JOHN HALE, #24720

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:15cv170-CWR-FKB

ROLANDO ABANGAN, ET AL.

DEFENDANTS

**JOINT MOTION FOR SUMMARY JUDGMENT OF
CENTURION OF MISSISSIPPI, LLC,
DR. KIM NAGLE, AND NURSE EVELYN DUNN'S**

Defendants Centurion of Mississippi, LLC (“Centurion”), Dr. Kim Nagel (“Dr. Nagel”), Nurse Evelyn Dunn (“Nurse Dunn”) (collectively “Centurion Defendants”), through counsel, and pursuant to Federal Rule of Civil Procedure 56, moves for summary judgment and dismissal of the Complaint filed by Inmate John Hale (“Hale”). In support, the Centurion Defendants state the following:

1. In his Complaint, as clarified at the Omnibus hearing, Plaintiff alleges that the Centurion Defendants violated his constitutional rights and the Americans with Disabilities Act by refusing to provide him with the medications of his choice. Hale also claims Centurion has a practice of putting its own financial concerns above Hale’s medical treatment.
2. Defendants are entitled to summary judgment because Hale has received proper medical treatment and there is no evidence there is no evidence that any Defendant was deliberate indifference to any serious medical need of Plaintiff and, therefore, did not violate his constitutional rights.
3. Defendants also are entitled to summary judgment on Hale’s ADA claims because Hale does not state a cognizable ADA claim. Instead, Hale’s complaints are merely about the medical treatment he received while incarnated.

4. In support of their joint motion for summary judgment, the Centurion Defendants attach excerpts from the transcript of the Omnibus Hearing as Exhibit A, excerpts from Hale's administrative remedies records as Exhibit B, excerpts from Hale's medical records as Exhibit C,¹ and a declaration of Dr. Kim Nagel as Exhibit D. Defendants have filed a request to file Hale's medical records under seal (Doc. 179), and therefore Exhibit C will be forwarded to the clerk's office under seal upon the Court's granted Defendants' motion to file under seal. A copy of the medical record excerpts will be served contemporaneous with this motion to the *pro se* plaintiff.

5. Consequently, and as more fully discussed in Defendants' Memorandum of Law in Support of their Motion for Summary Judgment, Defendants are entitled to and respectfully requests the Court enter summary judgment in their favor on all claims asserted against them by Plaintiff in this action.

Respectfully submitted, this the 20th day of June, 2017.

s/ Michael L. Cowan

Michael J. Bentley (MS Bar 102631)

Erin Saltaformaggio (MS Bar 103999)

Michael L. Cowan (MS Bar 104868)

ATTORNEY FOR DEFENDANTS

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¹ Complete copies of Hale's medical records for the relevant time were previously produced to Inmate Hale and the Court at the Omnibus hearing held in this matter.

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2017, I electronically filed the foregoing with the Clerk of the Court using the MEC system which will send notification of such filing to the following:

John Hale

24720

East Miss. Correctional Facility

10641 Highway 80 West

Meridian, MS 39307

s/ Michael L. Cowan

OF COUNSEL